

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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VICTOR JORDAN,

Plaintiff,

18-cv-8528 (JGK)

- against -

ORDER

JOSUE PIERRE ET AL.,

Defendants.

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JOHN G. KOELTL, District Judge:

The Court previously dismissed this case without prejudice to the ability of the plaintiff to file an amended complaint. ECF No. 106. At the plaintiff's request, on July 23, 2021, the Court extended the time of the plaintiff to file an amended complaint to August 9, 2021. ECF No. 109. The plaintiff chose not to file an amended complaint but chose instead to file an appeal with the Court of Appeals for the Second Circuit on July 30, 2021. ECF No. 111. On August 26, 2021, the Court of Appeals ordered that the appeal would be dismissed effective September 16, 2021 if the plaintiff failed to file a required form. ECF No. 112. The plaintiff failed to comply with the order of the Court of Appeals and the appeal was dismissed. Id. The mandate was issued from the Court of Appeals on December 28, 2021. Id.

Notwithstanding the pendency of the appeal, the plaintiff could have filed an amended complaint by the August 9, 2021 deadline. See, e.g., Mallgren v. New York City, No. 13-cv-724,

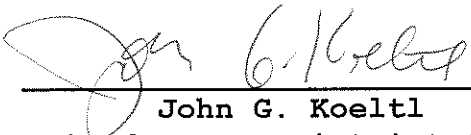
2014 WL 988838, at \*1 (E.D.N.Y. Mar. 12, 2014); see also Riddick v. Semple, 731 F. App'x 11, 13 (2d Cir. 2018).

Therefore, the complaint in this action was dismissed and the plaintiff failed to file an amended complaint by the deadline to file such an amended complaint. The complaint is therefore dismissed with prejudice. The Clerk is directed to enter a judgment dismissing this case with prejudice.

The Clerk is directed to mail a copy of this Order to the pro se plaintiff and to note service in the docket.

**SO ORDERED.**

**Dated: New York, New York  
January 31, 2022.**

  
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**John G. Koeltl**  
**United States District Judge**